

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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SHANE RHOOMS,

Plaintiff,

-against-

CITY OF NEW YORK, ROBERT ORTLIEB, Individually,
ROBERT HENDERSON, Individually, JOSEPH SEMINARA,
Individually, DEVON FREED, Individually, and JOHN DOE
1, Individually (the name John Doe being fictitious, as the true
name is presently unknown),

Defendants.
-----X

**PROPOSED
JOINT PRE-TRIAL
ORDER**

11 CV 5910
(PKC) (RER)

1. Caption

The full caption of the action is set forth above.

2. Parties and Counsel

Plaintiff:

Shane Rhooms

Defendants:

City of New York
Robert Ortlieb
Robert Henderson
Joseph Seminara
Devon Freed

Plaintiff's Counsel:

Brett H. Klein, Esq.
Samuel Gregory, Esq., Of Counsel
Brett H. Klein, Esq., PLLC
305 Broadway, Suite 600
New York, New York 10007
Tel: (212) 335-0132
Fax: (212) 335-0571

Defendants' Counsel:

Kimberly Joyce, Esq.
New York City Law Dep't
100 Church Street, Rm 6-232
New York, New York 10007
Tel: (212) 356-2650
Fax: (212) 788-9776

3. Jurisdiction

Plaintiff's Statement:

The Court's jurisdiction over the subject matter of this action is founded upon 28 U.S.C. §§ 1331, 1343 and 1367. Venue is proper in this district pursuant to 28 U.S.C. § 1391(b).

Defendants' Statement:

Defendants do not dispute federal jurisdiction or venue.

4. Claims and Defenses

Plaintiff's Summary of Claims:

1. False Arrest under Federal and State Law: Defendants Ortlieb, Henderson, Seminara, Freed and City of New York (via *respondeat superior*) falsely arrested plaintiff in violation of his rights under the Fourth Amendment via 42 U.S.C § 1983 and in violation of New York State Law.
2. Malicious Prosecution under Federal and State Law: Defendants Ortlieb, Henderson, Seminara, Freed and City of New York (via *respondeat superior*) maliciously prosecuted plaintiff in violation of his rights under the Fourth Amendment via 42 U.S.C § 1983 and in violation of New York State Law.
3. Violation of Right to Fair Trial under Federal Law: Defendants Ortlieb, Henderson, Seminara, and Freed violated plaintiff's right to fair trial by creating false evidence and forwarding it to prosecutors to be used against plaintiff in a legal proceeding in violation of his rights under the Fourth Amendment via 42 U.S.C § 1983.
4. Battery under State Law: Plaintiff was subjected to a battery by all of the defendants (including the City of New York via *respondeat superior*) in violation of New York State law.

Defendants' Defenses:

1. Defendants have not violated any rights, privileges or immunities secured to plaintiff by the Constitution or laws of the United States or of the State of New York or any political subdivision thereof, nor has defendant violated any act of Congress providing for the protection of civil rights.
2. Any injury alleged to have been sustained by plaintiff resulted from plaintiff's own culpable or negligent conduct or that of a third party and was not the proximate result of any act of the defendants.

3. Punitive damages cannot be assessed as against the City of New York.
4. The Amended Complaint fails to state a claim upon which relief can be granted.
5. At all times, defendants acted reasonably in the proper and lawful exercise of their discretion.
6. There was probable cause for plaintiff's detention, arrest and prosecution.
7. Plaintiff may have failed to comply with the conditions precedent to suit.
8. Plaintiff's claims may be barred, in whole or in part, by the applicable statute of limitations.
9. Defendants Robert Ortlieb, Robert Henderson, Joseph Seminara, and Devon Freed have not violated any clearly established constitutional or statutory right of which a reasonable person would have known and therefore are entitled to qualified immunity.

5. Jury or Bench Trial

The parties agree that the case is to be tried with a jury, and that approximately seven trial days will be needed.

6. District or Magistrate Judge

The parties do not consent to trial before a Magistrate Judge.

7. Names and Addresses of Witnesses

Plaintiff's Witnesses

1. Shane Rhooms
c/o Brett H. Klein, Esq., PLLC
305 Broadway, Suite 600
New York, New York 10007

Mr. Rhooms will testify regarding, *inter alia*, his whereabouts on September 5, 2010 through September 6, 2010, the events surrounding his subsequent arrest and prosecution, and as to the damages he suffered flowing therefrom.

2. Alhue Gayle
c/o Brett H. Klein, Esq., PLLC
305 Broadway, Suite 600
New York, New York 10007

Mr. Gale will testify regarding, *inter alia*, his and Mr. Rhooms' whereabouts on September 5, 2010 through September 6, 2010 and as to how these events have affected Mr. Rhooms.

3. Trevor Perez
c/o Brett H. Klein, Esq., PLLC
305 Broadway, Suite 600
New York, New York 10007

Mr. Perez will testify regarding, *inter alia*, his observations on September 5, 2010 going into September 6, 2010, and his detention, questioning, and custodial interrogation by NYPD officers, including defendant Freed.

4. Lew Lieberman, First Deputy Bureau Chief
Kings County District Attorney's Office
c/o New York City Law Department
100 Church Street
New York, New York 10007

Mr. Lieberman will testify regarding, *inter alia*, his knowledge of, and involvement in the investigation, arrest, and prosecution of plaintiff.

5. Robert Ortlieb, Defendant
c/o New York City Law Department
100 Church Street
New York, New York 10007

Mr. Ortlieb will testify regarding, *inter alia*, the shooting that occurred on September 6, 2010 and his role in the investigation and subsequent arrest and prosecution of plaintiff.

6. Robert Henderson, Defendant
c/o New York City Law Department
100 Church Street
New York, New York 10007

Mr. Henderson will testify regarding, *inter alia*, the shooting that occurred on September 6, 2010 and his role in the investigation and subsequent arrest and prosecution of plaintiff.

7. Joseph Seminara, Defendant
c/o New York City Law Department
100 Church Street
New York, New York 10007

Mr. Seminara will testify regarding, *inter alia*, the shooting that occurred on September 6, 2010 and his role in the investigation and subsequent arrest and prosecution of plaintiff.

8. Devon Freed, Defendant
c/o New York City Law Department
100 Church Street
New York, New York 10007

Defendant Freed will testify regarding, *inter alia*, the investigative steps that were taken with respect to the shooting that occurred on September 6, 2010, and as to the arrest and prosecution of plaintiff.

9. Daniel Insogna, NYPD
c/o New York City Law Department
100 Church Street
New York, New York 10007

Mr. Insogna will testify regarding, *inter alia*, his observations leading up to and after the shooting that occurred on September 6, 2010, and as to any knowledge he has of the investigation and subsequent arrest and prosecution of plaintiff.

10. Matthew Walker, NYPD
c/o New York City Law Department
100 Church Street
New York, New York 10007

Mr. Walker will testify regarding, *inter alia*, the investigative steps that he took with respect to the shooting that occurred on September 6, 2010.

11. Frank Sciortino, NYPD
c/o New York City Law Department
100 Church Street
New York, New York 10007

Mr. Sciortino will testify regarding, *inter alia*, his supervision of, involvement in, and knowledge of the investigative steps that were taken with respect to the shooting that occurred on September 6, 2010, and as to the arrest and prosecution of plaintiff.

12. Kenneth Fung, NYPD
c/o New York City Law Department
100 Church Street
New York, New York 10007

Mr. Walker will testify regarding, *inter alia*, the investigative steps that he took with respect to the shooting that occurred on September 6, 2010.

13. Dino Anselmo, NYPD
c/o New York City Law Department
100 Church Street
New York, New York 10007

Mr. Anselmo will testify regarding, *inter alia*, the investigative steps that he took with respect to the shooting that occurred on September 6, 2010.

14. Adam Wright, NYPD
c/o New York City Law Department
100 Church Street
New York, New York 10007

Mr. Wright will testify regarding, *inter alia*, the investigative steps that he took with respect to the shooting that occurred on September 6, 2010.

15. Michael Leaver, NYPD
c/o New York City Law Department
100 Church Street
New York, New York 10007

Mr. Leaver will testify regarding, *inter alia*, the investigative steps that he took with respect to the shooting that occurred on September 6, 2010.

16. Gregory Barrett, NYPD
c/o New York City Law Department
100 Church Street
New York, New York 10007

Mr. Barrett will testify regarding, *inter alia*, the investigative steps that he took with respect to the shooting that occurred on September 6, 2010.

17. Steven Xuereb, NYPD
c/o New York City Law Department
100 Church Street
New York, New York 10007

Mr. Xuereb will testify regarding, *inter alia*, the investigative steps that he took with respect to the shooting that occurred on September 6, 2010.

18. Scott Kienle, NYPD
c/o New York City Law Department
100 Church Street
New York, New York 10007

Mr. Kienle will testify regarding, *inter alia*, his supervision of, involvement in, and knowledge of the investigative steps that were taken with respect to the shooting that occurred on September 6, 2010, and as to the arrest and prosecution of plaintiff.

19. Michael Enright, NYPD
c/o New York City Law Department
100 Church Street
New York, New York 10007

Mr. Enright will testify regarding, *inter alia*, his supervision of, involvement in, and knowledge of the investigative steps that were taken with respect to the shooting that occurred on September 6, 2010, and as to the arrest and prosecution of plaintiff.

20. Francis Kiernan, NYPD
c/o New York City Law Department
100 Church Street
New York, New York 10007

Mr. Kiernan will testify regarding, *inter alia*, the investigative steps that he took with respect to the shooting that occurred on September 6, 2010.

21. Richard B. Krueger, M.D.
210 E. 68th Street
New York, New York 10065

Dr. Krueger, plaintiff's expert forensic psychiatrist, will testify as to his evaluation of Mr. Rhooms and the conclusions he has drawn with regard to plaintiff's damages including, *inter alia*, his diagnosis of PTSD.

Plaintiff further reserves the right to call any of the proposed witnesses on defendants' witness list and also reserves the right to call additional witnesses for purposes of rebuttal and/or impeachment.

Defendants' Witnesses

1. Robert Ortlieb, defendant, NYPD; will testify as to the facts and circumstances surrounding Plaintiff's detention, arrest, and prosecution.¹
2. Robert Henderson, defendant, NYPD; will testify as to the facts and circumstances surrounding Plaintiff's detention, arrest, and prosecution.
3. Joseph Seminara, defendant, NYPD; will testify as to the facts and circumstances surrounding Plaintiff's detention, arrest, and prosecution.
4. Devon Freed, defendant, retired NYPD; will testify as to the facts and circumstances surrounding Plaintiff's detention, arrest, and prosecution.
5. Lew Lieberman, non-party witness, Brooklyn District Attorney's Office; will testify as to the facts and circumstances surrounding Plaintiff's detention, arrest, and prosecution.
6. Daniel Insogna, non-party witness, NYPD; will testify as to the facts and circumstances surrounding Plaintiff's detention and arrest.
7. Matthew Walker, non-party witness, NYPD; will testify as to the facts and circumstances surrounding Plaintiff's detention and arrest.
8. Frank Sciortino, non-party witness, NYPD; will testify as to the facts and circumstances surrounding Plaintiff's detention and arrest.
9. Kenneth Fung, non-party witness, NYPD; will testify as to the facts and circumstances surrounding Plaintiff's detention and arrest.
10. Dino Anselmo, non-party witness, NYPD; will testify as to the facts and circumstances surrounding Plaintiff's detention and arrest.
11. Adam Wright, non-party witness, NYPD; will testify as to the facts and circumstances surrounding Plaintiff's detention and arrest.
12. Michael Leaver, non-party witness, NYPD; will testify as to the facts and circumstances surrounding Plaintiff's detention and arrest.
13. Gregory Barrett, non-party witness, NYPD; will testify as to the facts and circumstances surrounding Plaintiff's detention and arrest.
14. Steven Xuereb, non-party witness, NYPD; will testify as to the facts and circumstances surrounding Plaintiff's detention and arrest.

¹ All NYPD and District Attorney witnesses can be served c/o New York City Law Department, attn: Kimberly Joyce, 100 Church Street, Rm 6-232, New York, New York 10007.

15. Scott Kienlie, non-party witness, NYPD; will testify as to the facts and circumstances surrounding Plaintiff's detention and arrest.
16. Michael Enright, non-party witness, NYPD; will testify as to the facts and circumstances surrounding Plaintiff's detention and arrest.
17. Francis Kiernan, non-party witness, NYPD; will testify as to the facts and circumstances surrounding Plaintiff's detention and arrest.
18. Sam Gregory, non-party witness, Plaintiff's criminal defense attorney, 16 Court Street, Suite 2008, Brooklyn, NY 11241; will testify as to the facts and circumstances surrounding Plaintiff's detention, arrest, and prosecution.

*Defendants reserve the right to call any of the proposed witnesses on Plaintiff's witness list and also reserve the right to call additional witnesses for purposes of rebuttal and/or impeachment.

8. Deposition Testimony

The parties do not anticipate that they will present deposition testimony instead of live testimony during their cases-in-chief, but reserve the right to use deposition testimony for impeachment, for rebuttal, or to the extent a live witness listed in the Joint Pre-Trial Order is not called at trial.

9. Stipulations

The parties have not agreed upon any factual stipulations.

10. Exhibits

Plaintiff's Exhibits

Desig.	Description of Exhibit	Basis for Objection
1	Certificate of Disposition (NYC1)	None.
2	Identification Notice (NYC9-NYC10)	FRE 403 (waste of time, confusing, cumulative, undue delay), FRE 802 (hearsay)
3	Criminal Court Complaint (P001)	FRE 402 (not relevant), FRE 403 (wasting time, confusing, undue delay), FRE 802 (hearsay)
4	Indictment (P004-P015)	None.
5	Court Action Sheets (NYC42-NYC44)	FRE 402 (not relevant), FRE 403 (wasting time, confusing), FRE 802 (hearsay), FRE 901 (foundation)
6	Crime Scene Unit Recap Sheet	FRE 402 (not relevant), FRE 403

	(NYC45-NYC46)	(wasting time, confusing, undue delay), FRE 802 (hearsay)
7	CSU Evidence Report/List (NYC72-NYC85)	FRE 402 (not relevant), FRE 403 (wasting time, confusing, undue delay), FRE 802 (hearsay)
8	Omni-form Complaints (NYC88-NYC89)	FRE 402 (not relevant), FRE 403 (wasting time, confusing), FRE 802 (hearsay)
9	Handwritten Notes (NYC151-NYC152)	FRE 402 (not relevant), FRE 403 (wasting time, confusing, undue delay), FRE 802 (hearsay)
10	Seminara Memo Book (NYC168-NYC170)	FRE 402 (not relevant), FRE 403 (wasting time, confusing, undue delay), FRE 802 (hearsay)
11	Henderson Memo Book (NYC171-NYC173)	FRE 402 (not relevant), FRE 403 (wasting time, confusing, undue delay), FRE 802 (hearsay)
12	Photo – Perez Statement (NYC187)	FRE 802 (hearsay)
13	Seminara Photo Array (NYC188)	None.
14	Handwritten Statement by Rhooms (NYC190)	None.
15	Ortlieb Memo Book (NYC480)	FRE 402 (not relevant), FRE 403 (wasting time, confusing, undue delay), FRE 802 (hearsay)
16	Discharge Diagram Seminara (NYC482)	FRE 402 (not relevant), FRE 403 (wasting time, confusing, misleading, undue delay, cumulative), FRE 802 (hearsay)
17	Discharge Diagram Ortlieb (NYC483)	FRE 402 (not relevant), FRE 403 (wasting time, confusing, misleading, undue delay, cumulative), FRE 802 (hearsay)
18	Discharge Diagram Henderson (NYC484)	FRE 402 (not relevant), FRE 403 (wasting time, confusing, misleading, undue delay, cumulative), FRE 802 (hearsay)
19	I-Card (NYC543-NYC544)	FRE 402 (not relevant), FRE 403 (wasting time, confusing, undue delay), FRE 802 (hearsay)
20	Property Clerk Invoice R470999 (NYC549)	FRE 403 (wasting time, undue delay), FRE 802 (hearsay)
21	Property Clerk Invoice R470998 (NYC550)	FRE 403 (wasting time, undue delay), FRE 802 (hearsay)
22	Line-Up Report Seminara	FRE 403 (wasting time, undue delay,

	(NYC551)	cumulative)
23	Line-Up Report Henderson (NYC552)	FRE 403 (wasting time, undue delay, cumulative)
24	Line-Up Report Ortleib (NYC553)	FRE 403 (wasting time, undue delay, cumulative)
25	List of property received by Norma Williams (NYC554)	FRE 402 (not relevant), FRE 403 (wasting time, undue delay), FRE 802 (hearsay)
26	Cell Phone Maps (NYC555-NYC561)	FRE 402 (not relevant), FRE 403 (wasting time, undue delay, confusing)
27	Supreme Court Kings County Order for Cell Phone Records (NYC562-563)	FRE 402 (not relevant), FRE 403 (wasting time, undue delay)
28	AT&T Cell Phone Records (NYC564-NYC572)	FRE 402 (not relevant), FRE 403 (wasting time, undue delay, confusing), FRE 802 (hearsay), FRE 901 (foundation)
29	Metro PCS Cell Phone Records (NYC573-NYC585)	FRE 402 (not relevant), FRE 403 (wasting time, undue delay, confusing), FRE 802 (hearsay), FRE 901 (foundation)
30	GJ Synopsis Sheet (NYC586-NYC588)	FRE 403 (wasting time, undue delay), FRE 802 (hearsay), FRE 901 (foundation)
31	NYPD Wanted Poster (NYC4052)	FRE 403 (wasting time, undue delay)
32	DD5 1 with Attachments – Freed (NYC197-NYC198)	FRE 402 (not relevant), FRE 403 (cumulative, wasting time, confusing), FRE 802 (hearsay)
33	DD5 2 – Walker (NYC199)	FRE 402 (not relevant), FRE 403 (cumulative, wasting time, confusing), FRE 802 (hearsay)
34	DD5 3 – Barrett (NYC200)	FRE 402 (not relevant), FRE 403 (cumulative, wasting time, confusing), FRE 802 (hearsay)
35	DD5 3 – Leaver (NYC515)	FRE 402 (not relevant), FRE 403 (cumulative, wasting time, confusing), FRE 802 (hearsay)
36	DD5 3 – Xuereb (NYC517)	FRE 402 (not relevant), FRE 403 (cumulative, wasting time, confusing), FRE 802 (hearsay)
37	DD5 4 – Leaver (NYC201)	FRE 402 (not relevant), FRE 403 (cumulative, wasting time, confusing), FRE 802 (hearsay)
38	DD5 5 – Xuereb (NYC202)	FRE 402 (not relevant), FRE 403 (cumulative, wasting time, confusing),

		FRE 802 (hearsay)
39	DD5 6 – Freed – (NYC203)	FRE 402 (not relevant), FRE 403 (cumulative, wasting time, confusing), FRE 802 (hearsay)
40	DD5 6 – Walker (NYC512)	FRE 402 (not relevant), FRE 403 (cumulative, wasting time, confusing), FRE 802 (hearsay)
41	DD5 6 – Anselmo (NYC513)	FRE 402 (not relevant), FRE 403 (cumulative, wasting time, confusing), FRE 802 (hearsay)
42	DD5 7 – Anselmo (NYC204)	FRE 402 (not relevant), FRE 403 (cumulative, wasting time, confusing), FRE 802 (hearsay)
43	DD5 8 – Walker (NYC205)	FRE 402 (not relevant), FRE 403 (cumulative, wasting time, confusing), FRE 802 (hearsay)
44	DD5 9 – Walker (NYC206)	FRE 402 (not relevant), FRE 403 (cumulative, wasting time, confusing), FRE 802 (hearsay)
45	DD5 10 – Walker (NYC207)	FRE 402 (not relevant), FRE 403 (cumulative, wasting time, confusing), FRE 802 (hearsay)
46	DD5 11 – Kiernan (NYC208)	FRE 402 (not relevant), FRE 403 (cumulative, wasting time, confusing), FRE 802 (hearsay)
47	DD5 12 – Barrett (NYC209)	FRE 402 (not relevant), FRE 403 (cumulative, wasting time, confusing), FRE 802 (hearsay)
48	DD5 12 – Freed (NYC510)	FRE 402 (not relevant), FRE 403 (cumulative, wasting time, confusing), FRE 802 (hearsay)
49	DD5 13 – Freed (NYC210)	FRE 402 (not relevant), FRE 403 (cumulative, wasting time, confusing), FRE 802 (hearsay)
50	DD5 14 – Freed w/ Attachments (NYC4055-4058)	FRE 402 (not relevant), FRE 403 (cumulative, wasting time, confusing), FRE 802 (hearsay)
51	DD5 15 w/ Attachments (NYC4059-4062)	FRE 402 (not relevant), FRE 403 (cumulative, wasting time, confusing), FRE 802 (hearsay)
52	DD5 16 w/ Attachments (NYC4063-4066)	FRE 402 (not relevant), FRE 403 (cumulative, wasting time, confusing), FRE 802 (hearsay)
53	DD5 17 – Freed w/ Attachment (NYC215-NYC216)	FRE 402 (not relevant), FRE 403 (cumulative, wasting time, confusing), FRE 802 (hearsay)

54	DD5 18 – Fung (NYC217-NYC220)	FRE 402 (not relevant), FRE 403 (cumulative, wasting time, confusing), FRE 802 (hearsay)
55	DD5 19 – Kiernan w/ Attachments (NYC4069-4072)	FRE 402 (not relevant), FRE 403 (cumulative, wasting time, confusing), FRE 802 (hearsay)
56	DD5 20 – Freed w/ Attachments (NYC4073-4076)	FRE 402 (not relevant), FRE 403 (cumulative, wasting time, confusing), FRE 802 (hearsay)
57	DD5 21 – Freed (NYC224)	FRE 402 (not relevant), FRE 403 (cumulative, wasting time, confusing), FRE 802 (hearsay)
58	DD5 22 – Freed w/ Attachments (NYC4077-NYC4081)	FRE 402 (not relevant), FRE 403 (cumulative, wasting time, confusing), FRE 802 (hearsay)
59	DD5 23 – Barrett (NYC227)	FRE 402 (not relevant), FRE 403 (cumulative, wasting time, confusing), FRE 802 (hearsay)
60	DD5 24 – Barrett (NYC228)	FRE 402 (not relevant), FRE 403 (cumulative, wasting time, confusing), FRE 802 (hearsay)
61	DD5 25 – Wright w/ Attachments (NYC2289-NYC230))	FRE 402 (not relevant), FRE 403 (cumulative, wasting time, confusing), FRE 802 (hearsay)
62	DD5 26 – Freed (NYC231)	FRE 402 (not relevant), FRE 403 (cumulative, wasting time, confusing), FRE 802 (hearsay)
63	DD5 27 – Freed w/ Attachments (NYC4085-NYC4087)	FRE 402 (not relevant), FRE 403 (cumulative, wasting time, confusing), FRE 802 (hearsay)
64	DD5 28 – Freed w/ Attachments (NYC4088-NYC4089)	FRE 402 (not relevant), FRE 403 (cumulative, wasting time, confusing), FRE 802 (hearsay)
65	DD5 29 – Freed w/ Attachments (NYC4090-NYC4091)	FRE 402 (not relevant), FRE 403 (cumulative, wasting time, confusing), FRE 802 (hearsay)
66	DD5 30 – Freed w/ Attachments (NYC4092-NYC4096)	FRE 402 (not relevant), FRE 403 (cumulative, wasting time, confusing), FRE 802 (hearsay)
67	DD5 31 – Freed (NYC240)	FRE 402 (not relevant), FRE 403 (cumulative, wasting time, confusing), FRE 802 (hearsay)
68	DD5 32 – Freed (NYC4097-NYC4100)	FRE 402 (not relevant), FRE 403 (cumulative, wasting time, confusing), FRE 802 (hearsay)
69	Memo Book Fung (NYC4101-	FRE 402 (not relevant), FRE 403

	NYC4103)	(wasting time, confusing, undue delay), FRE 802 (hearsay)
70	Memo Book Wright (NYC4104-NYC4106)	FRE 402 (not relevant), FRE 403 (wasting time, confusing, undue delay), FRE 802 (hearsay)
71	Complaint Worksheet (NYC4119-NYC4122)	FRE 403 (wasting time, undue delay, cumulative), FRE 802 (hearsay)
72	Walker Notes– Copy of Rose Sheroden’s ID (NYC4117)	FRE 402 (not relevant), FRE 403 (wasting time, confusing, undue delay), FRE 802 (hearsay)
73	Copies of Clarke and Brown’s IDs (NYC4125)	FRE 802 (hearsay)
74	Walker Notes and copy of Evanton Jones’ ID – NYC4126)	FRE 402 (not relevant), FRE 403 (wasting time, confusing, undue delay), FRE 802 (hearsay)
75	Handwritten Notes (NYC4234-NYC4275)	FRE 402 (not relevant), FRE 403 (wasting time, confusing, undue delay), FRE 802 (hearsay)
76	Memo Book Kiernan (NYC4276-NYC4278)	FRE 402 (not relevant), FRE 403 (wasting time, confusing, undue delay), FRE 802 (hearsay)
77	Memo Book Leaver (NYC4279-NYC4281)	FRE 402 (not relevant), FRE 403 (wasting time, confusing, undue delay), FRE 802 (hearsay)
78	Departmental Recognition Request Ortlieb (NYC4282-NYC4285)	FRE 402 (not relevant), FRE 403 (wasting time, prejudicial), FRE 404 (improper character evidence), FRE 802 (hearsay)
79	Departmental Recognition Request Henderson (NYC4288-NYC4291)	FRE 402 (not relevant), FRE 403 (wasting time, prejudicial), FRE 404 (improper character evidence), FRE 802 (hearsay)
80	Departmental Recognition Request Seminara (NYC4294-NYC4297)	FRE 402 (not relevant), FRE 403 (wasting time, prejudicial), FRE 404 (improper character evidence), FRE 802 (hearsay)
81	Medical Records from Advanced Center for Psychotherapy	FRE 403 (wasting time, undue delay, cumulative, confusing), FRE 802 (hearsay). Defendants request that Plaintiff identify the specific medical records that plaintiff intends to offer.
82	Memo Book Enright (NYC4439-NYC4440)	FRE 402 (not relevant), FRE 403 (wasting time, confusing, undue delay), FRE 802 (hearsay)
83	Memo Book Sciortino (NYC4441-NYC4443)	FRE 402 (not relevant), FRE 403 (wasting time, confusing, undue delay),

		FRE 802 (hearsay)
84	Memo Book Anselmo (NYC4444-NYC4445)	FRE 402 (not relevant), FRE 403 (wasting time, confusing, undue delay), FRE 802 (hearsay)
85	Memo Book Barrett (NYC4446-NYC4447)	FRE 402 (not relevant), FRE 403 (wasting time, confusing, undue delay), FRE 802 (hearsay)
86	Memo Book Kienle (NYC4492-NYC4493)	FRE 402 (not relevant), FRE 403 (wasting time, confusing, undue delay), FRE 802 (hearsay)
87	Medal Day (NYC4579-NYC4581)	FRE 402 (not relevant), FRE 403 (wasting time, prejudicial), FRE 404 (improper character evidence), FRE 802 (hearsay)
88	Crime Scene Photos 0245 Hours (1-127)	FRE 402 (not relevant), FRE 403 (wasting time, undue delay, cumulative)
89	Crime Scene Unit Report 9/6/2010 0245 Hours	FRE 402 (not relevant), FRE 403 (wasting time, undue delay, confusing), FRE 802 (hearsay)
90	Crime Scene Diagrams	FRE 402 (not relevant), FRE 403 (wasting time, undue delay, confusing, misleading), FRE 802 (hearsay)
91	Request for Laboratory Examination	FRE 402 (not relevant), FRE 403 (wasting time, undue delay), FRE 802 (hearsay)
92	Crime Scene Photos 1600 Hours (1-12)	FRE 402 (not relevant), FRE 403 (wasting time, undue delay, cumulative)
93	Crime Scene Unit Report 9/6/2010 – 1600 Hours	FRE 402 (not relevant), FRE 403 (wasting time, undue delay, confusing), FRE 802 (hearsay)
94	Police Radio Run 1 – 67 Pct.	FRE 402 (not relevant), FRE 403 (wasting time, undue delay), FRE 802 (hearsay), FRE 901 (foundation)
95	Police Radio Run 2 – 67 Pct.	FRE 402 (not relevant), FRE 403 (wasting time, undue delay), FRE 802 (hearsay), FRE 901 (foundation)
96	Webster Hall Surveillance Video	None.
97	“Alibi or Not, NYPD Commissioner Ray Kelly insists freed shooting suspect Shane Rhooms is guilty” by William Sherman, New York Daily News, December 23, 2010	FRE 402 (not relevant), FRE 403 (wasting time, prejudicial), FRE 802 (hearsay)

Defendants' Exhibits

Desig.	Description of Exhibit	Basis for Objection
A	Photographs of the incident location at 222 Lenox	Plaintiff reserves his right to object pending defendants' designation of the photos being offered
B	Party Flyer for party hosted by Trevor Perez on 9/6/10 at 222 Lenox (NYC 548)	FRE 402 (not relevant), FRE 403 (wasting time, prejudicial)
C	Photograph and written statement signed by Trevor Perez on 9/6/10 at 4:30 a.m. (NYC 187)	None
D	Webster Hall surveillance video and Envelope (Disc 2 AND NYC 4494)	None
E	Plaintiff's Miranda Warnings and Statement (NYC 189 – NYC 190)	None
F	Kings County Grand Jury Indictment No. 7974/2010, from 9/10/10 (NYC 12 AND NYC 28 – NYC 38)	None
G	Certificate of Disposition dated 12/21/10 (NYC 1)	None

Defendants reserve the right to use or introduce any exhibits listed by plaintiffs, and to supplement their exhibits as necessary at trial.

11. Motions in Limine

Fully briefed Motions in Limine are due to be filed on January 27, 2018, with the parties exchanging moving papers on January 20, 2018, as per an earlier order of Magistrate Ramon E. Reyes.

Dated: New York, New York
January 5, 2018

BRETT H. KLEIN, ESQ., PLLC
Attorneys for the Plaintiff
305 Broadway, Suite 600
New York, New York 10007
(212) 335-0132

By: s/ Brett Klein
BRETT H. KLEIN

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SO ORDERED:

Honorable Pamela K. Chen
United States District Judge